



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

9

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/815,358

04/01/2004

Carl H. Schulman

8824-100US

8273

36412 7590 10/09/2007
DUCKOR SPRADLING METZGER & WYNNE
A LAW CORPORATION
3043 4th Ave.
SAN DIEGO, CA 92103

EXAMINER

TRAN, HANH VAN

ART UNIT	PAPER NUMBER
----------	--------------

3637

MAIL DATE	DELIVERY MODE
-----------	---------------

10/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/815,358	Applicant(s) SCHULMAN, CARL H.	
	Examiner Hanh V. Tran	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 11, 13, 21-23, 31, 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 11, 13, 21-23, 31, 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/1/2007 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3, 13, 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each of the independent claims 1, 11 and 21 positively recited a roller; therefore, the limitation in each of claims 3, 13, and 22 of the support assembly comprising "at least one roller" renders claims 3, 13, and 22 indefinite for failing to clearly define whether said at least one roller is the same or different from the roller recited in each of the above-listed independent claims. Claim 21, the preamble recites "[A] support assembly for use with a support structure for supporting at least one electronic component, comprising...". This language would lead the examiner to believe applicant intends to claim only the subcombination of a support assembly, the support structure and the at least one electronic component are only functionally recited. This present no problem as long as the body of the claim also refers to the

Art Unit: 3637

support structure and electronic component functionally, such as "a supporting apparatus structured for attaching to the support structure" or "a supporting apparatus structured to be adapted for attaching to the support structure." The problem arises when the support structure and/or the electronic component is positively recited within the body of the claim. The preamble indicates subcombination, while in the body of the claim in at least one instance there is a positive recital of structure indicating that the combination of a support assembly and a support structure is being claimed. The examiner cannot be sure if applicant's intent is to claim merely the support assembly or the support assembly in combination with a support structure. Applicant is required to clarify what the claim is intended to be drawn to and the claim be amended accordingly. For the purpose of this examination, the examiner is considering that the claims are drawn to the combination. Applicant's amendment to claims 1, 11 has obviated the 112(2) base on combination/subcombination raised in the Office action mailed on 5/2/2007.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

Art Unit: 3637

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 1, 3, 11, 13, 21-23, 31, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 427,217 to Bancroft in view of USP 5,199,773 to Price, Jr. et al.

Bancroft discloses a furniture construction comprising all the elements recited in the above listed claims including: a housing defining an interior that is at least partially enclosed; means defining an angled opening in an upper portion of the housing; a support assembly including a platform 9 having an upstanding rear wall, at least one roller 13 mounted on the housing near the angled opening to enable the platform 9 to move angularly through the opening until the drawer pivots under its weight into a substantially horizontal position; a stop forming a part of the interior of the housing adjacent to the angled opening; and the platform 9 including a top portion 12. The different being that Bancroft fails to disclose a drawer having two upstanding sidewalls, instead the platform having only a bottom wall and an upstanding rear wall, and the method steps recited in claims 31 and 34.

However, Price, Jr. et al teaches the idea of providing a furniture construction with a housing defining an interior, and a support assembly comprising a drawer movable between a first position that is generally horizontal and a second position that is at a downwardly inclined angle at least partially within the interior of the housing; wherein the drawer facilitates moving of article placed thereon between the first and second positions. In view of the teaching of Price, Jr. et al, it would have been obvious to modify the structure of Bancroft by replacing the platform 9 with a drawer having two

Art Unit: 3637

upstanding sidewalls as well as an upstanding rear wall in order to facilitate moving of article placed thereon between the first and second position, as taught by Price, Jr. et al, since both teach alternate conventional structure of a furniture construction with a housing, used for same intended purpose of supporting article thereon, thereby providing structure as claimed. In regard to the method claims 31, and 34, Bancroft, as modified, discloses all the structural limitations recited in said claims; therefore, it would have been obvious and well within the level of one skill in the art to perform the method steps recited in said claims.

Response to Arguments

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



HVT

September 30, 2007

Hanh V. Tran
Art Unit 3637